respect of her sub-letting in excess of 110% of the recoverable rent paid to the landlord and a case for recovery of possession under section 15(1)(g) of the Act was made out by the landlord. It was there held by the Judicial Committee of Privy Council that upon expiry of the notice to quit the tenant, having failed to qualify as a statutory tenant, became a trespasser.

We now turn to consider the right of the Respondent in relation to the said premises. Prior to the determination of the contractual tenancy of Ng Hiang Liat on November 30, 1972, the partners of Seng Bee Rubber Company were contractual sub-tenants of Ng Hiang Liat. Upon the determination of the contractual tenancy of Ng Hiang Liat, the contractual sub-tenancy of the partners also determined and they became statutory tenants of the said premises; since the interest of Ng Hiang Liat as a tenant of the said premises had ceased, they became statutory tenants of the Appellants: *Guan Seng Kee Ltd.* v. *Buan Lee Seng Ltd.*[5]. The Respondent was a partner of the firm at that time and accordingly he and his partners at that time held the statutory tenancy of the said premises as joint tenants and his tenancy as a joint tenant remained vested in him after his partners retired from the firm, and he became and is a statutory tenant of the Appellants. It therefore follows that the three agreements (Exhibits D.1D, D.1E and D.1F), purporting to create a sub-tenancy of the said premises had no such effect at all, as at that time, Ng Hiang Liat was already a trespasser and could not create or grant any sub-tenancy of the said premises to the Respondent.

Mr. Tan Chin Tiong on behalf of the Appellants contended that on the expiry of the first notice to quit the sub-tenancy of the said premises determined and the partners of Seng Bee Rubber Company became statutory tenants of Ng Hiang Liat and such statutory tenancy was surrendered either at the time when the second agreement dated October 1, 1973, (Exhibit D.1D) was entered into between the partnership firm and Ng Hiang Liat or at the time when the Respondent entered into the last agreement dated October 1, 1976, (Exhibit D.1F). With respect, this argument cannot be right. If the contractual tenancy of Ng Hiang Liat determined on the expiry of the first notice to quit and Ng Hiang Liat failed to qualify as a statutory tenant, then two consequences must ensue: (i) the interest of Ng Hiang Liat as a tenant of the said premises ceased and he became a trespasser, and (ii) the partners of the firm, Seng Bee Rubber Company who were contractual sub-tenants of Ng Hiang Liat became statutory tenants of the Appellants. If the Appellants had at that time initiated proceedings against Ng Hiang Liat for recovery of possession on the grounds as they did in Summons No. 5794 of 1979 in the District Court, they would have succeeded in obtaining an order for possession against Ng Hiang Liat. The mere inertia or absence of such action on the part of the Appellants for so many years clearly did not alter, and could not have altered, the status of the statutory tenancy which was created by operation of law at that time.

For reasons which we have given, the appeal is dismissed with costs and the sum paid by the Appellants by way of security for the Respondent's costs be paid to the Respondent to account of his costs.

Appeal dismissed.

Solicitors: *Wee Swee Teow & Co.; P. Suppiah & Co.*

PEH KWEE YONG v. SINAR CO. (PTE.) LTD.

[O.C.J. (Lai Kew Chai J.) May 16, 1984]

[Singapore – Originating Summons No. 78 of 1983]

Land Law – Conveyancing practice – Requisition – Road widening of 30.6 sq.m. – Whether an answer to requisition relating to road-widening of land unsatisfactory – Question of fact.

Conveyancing – Requisition – Road-widening of 30.6 sq.m. – Whether answers to requisition relating to road-widening of land unsatisfactory – Question of fact.

By an agreement in writing concluded on December 4, 1982, the plaintiff agreed to buy from the defendants a piece of land known as Lot 3563 in Mukim IV, Ulu Pandan and No. 9 First Avenue, Singapore at the price of $1,860,000. The land had an area of 1,197.7 sq.m. or approximately 12,900 sq. ft. Completion was to have taken place within 8 weeks of the date of the agreement. Clause 6 of the agreement provided that "The property is sold subject to (the purchaser's) solicitors receiving satisfactory answers to all requisitions sent to ... the various government departments and in the event of any of the answers to such requisition being found unsatisfactory to (the purchaser's) solicitors (the purchaser) may annul the sale ..." (words in bracket added).

On December 16, 1982 the plaintiff's solicitors wrote to the defendants' solicitors alleging that, according to the

Interpretation Plan, the land was affected by road-widening which would reduce the area. The plaintiff accordingly asked for a reduction of the price. On January 4, 1983 the plaintiff by notice in writing purported to annul the sale and purchase agreement under clause 6 on the ground that the reply to his requisition was unsatisfactory within the meaning of that clause. The defendants refused to accept the notice of annulment and instead, served on the plaintiff a 21-day notice in writing to complete the purchase.

Held, dismissing the plaintiff's summons: (1) only those answers to requisitions which are unsatisfactory to a reasonably determined purchaser could entitle such a purchaser to call off the agreement;

(2) whether a particular answer is unsatisfactory to a reasonably determined purchaser within the meaning of the clause is, in each case, a question of fact;

(3) as the area (30.6 sq.m. or 329 sq.ft.) which might be affected by road-widening is so inconsequential, no reasonably determined purchaser could regard it as giving him the right under clause 6 to annul the sale and purchase agreement.

Cases referred to:

(1) *Tatlien Hardware Pte. Ltd.* v. *Tan & Lie* [1982] 1 M.L.J. 9.

(2) *Teo Hong Choo* v. *Chin Kiang Industries Pte. Ltd.* [1983] 2 M.L.J. 309.

ORIGINATING SUMMONS.

Ng Lian Poh for the plaintiff.
Teo Guan Teck for the defendants.

Cur. Adv. Vult.

Lai Kew Chai J.: By an agreement in writing concluded on December 4, 1982, the Plaintiff agreed to buy from the Defendants a piece of land known as Lot 3563 in Mukim IV, Ulu Pandan, District of Tanglin, Singapore together with No. 9 First Avenue, Singapore at the price of $1,860,000. The land had an area of 1,197.7 square metres or approximately 12,900 square feet. Completion was to have taken place within 8 weeks of the date of the agreement.

Clause 6 of the agreement provided as follows:–

"6. The property is sold subject to your solicitors receiving satisfactory answers to all requisitions sent to or to be sent by them to the various Government departments and in the event of any of the answers to such requisition being found unsatisfactory to you or your solicitors you may annul the sale in which event the 10% deposit paid by you shall forthwith be refunded to you without any interest or deductions whatsoever and neither party shall have any claims or demands against the other for costs damages or compensation whatsoever each party to pay his own legal costs in respect of the abortive sale and purchase. Provided if such replies to such requisitions are not received by the date of completion as aforesaid, then such requisitions shall be deemed to be satisfactory."

On December 16, 1982 the Plaintiff's solicitors wrote to the Defendants' solicitors alleging that, according to the Interpretation Plan, the land was affected by road widening which would reduce the area. He also alleged that in the course of the negotiations, it was fraudulently represented to him that the land had an area of "over 14,000 square feet". The letter went on to ask if the Defendants would consider a reduction of the price and, if so, the "new price" was to be indicated so that the Plaintiff could consider whether he would proceed with the purchase or not.

On January 4, 1983 the Plaintiff by notice in writing purported to annul the sale and purchase agreement under Clause 6 on the ground that the reply to his requisition was unsatisfactory within the meaning of that clause. The Defendants refused to accept the notice of annulment. Instead, they served on the Plaintiff the usual 21 day notice in writing to complete the purchase.

At the hearing before me, it has been ascertained that the area which could be affected by any road widening was only in the order of 30.6 square metres or 329 square feet. In configuration, the area which might be affected would be a very narrow strip which would abut the First Avenue, Singapore. The First Avenue was a fifth category road. All allegations of any fraudulent misrepresentation were abandoned at the hearing before me.

The sole question for my determination is whether the answers to the Plaintiff's requisition relating to the possible road widening of the land were unsatisfactory within the meaning of Clause 6 of the agreement.

It was submitted on behalf of the Plaintiff that the words in Clause 6 of the agreement are wider than those which were agreed to in two other reported cases, viz: *Tatlien Hardware Pte. Ltd.* v. *Tan & Lie*[1] and *Teo Hong Choo* v. *Chin Kiang Industries Pte. Ltd.*[2]. Relying on the words "... being found unsatisfactory *to you (the Plaintiff) or your solicitors* ..." (the emphasis, the brackets and the words within the brackets are mine), which do not appear in either of the two cases cited, Counsel for the plaintiff made the robust submission that it was the intention of the parties before me that this clause meant that whether an answer to any requisition is unsatisfactory or otherwise

is left entirely to the subjective view of the Plaintiff. In my judgment, this construction of the clause is incorrect. It could not have been the intention of the parties that the sale and purchase agreement could be annulled by the Plaintiff at his whim and fancy. A true and natural construction of the clause must place it on an objective and reasonable basis. In my view, only those answers to requisitions which are unsatisfactory to a reasonably determined purchaser could entitle such a purchaser to call off the agreement. And whether a particular answer is unsatisfactory to a reasonably determined purchaser within the meaning of the clause is, in each case, a question of fact. It seems to me that this approach provides the legal basis on which my decision here and the two decisions of the High Court, already referred, may be understood.

As the area which might be affected by road widening in this case is so inconsequential, I have no doubt in my mind and I find that no reasonably determined purchaser could regard it as giving him the right under Clause 6 to annul the sale and purchase agreement. Accordingly, I answer the Plaintiff's Originating Summons by refusing to declare that the Plaintiff was entitled to annul the sale and purchase agreement. I also refuse to declare that the Defendants' notice to complete was null and void.

In the circumstances, the Plaintiff's summons s dismissed with costs.

Summons dismissed.

Solicitors: *Ng Lian Poh & Co.; Teo Guan Teck.*

A MALAYSIAN REPORTS

LEE WAH BANK LTD. v. CHI LIUNG HOLDINGS SDN. BHD.

[F.C. (Abdul Hamid C.J. (Malaya), Mohamed Azmi & Syed Agil Barakbah F.JJ.) April 17 & June 16, 1984]

[Kuala Lumpur – Federal Court Civil Appeal No. 291 of 1983]

Land Law – Sale of business premises – Subsidiary and strata titles – Installation of Automated Teller Machine on exterior wall of premises – Alteration of premises – Installation of signboards and logo on exterior wall – Consent of competent authorities.

In this case the respondents had sold to the appellants, premises in their multi-storey building, the Chi Liung Plaza, to be used for their banking business. The appellants wanted to install an automated teller machine which involved making a hole through the external wall and installing the machine. The appellant also wanted to install their sign-boards and logo with neon or spot lights on the exterior wall of the premises. The appellant wrote to the respondents seeking approval and were granted approval subject to payment of rental. The appellants did not agree to payment of rent for the use of the exterior wall and applied to court for a declaration that they were entitled to install the Automated Teller Machine and the signboard and logo. The appellants' application was dismissed in the High Court and they appealed to the Federal Court.

Held: (1) the installation of the Automated Teller Machine would involve an alteration of the exterior wall and therefore the consent of the respondents was required;

(2) in regard to the installation of the signboard and logo, the appellants required the approval of the competent authorities but no approval of the respondents was necessary;

(3) the appeal was therefore allowed in part. As regards the installation of the ATM the order of the learned Judge was affirmed, but as regards the installation of the signboards and the logo the appeal was allowed.

Cases referred to:

(1) *Bickmore* v. *Dimmer* [1903] 1 Ch.D. 158.
(2) *Sturge* v. *Hackett* [1962] 3 All E.R. 166.
(3) *Brazier* v. *Skipton Rock Co. Ltd.* [1962] 1 All E.R. 955, 957.
(4) *Gibson* v. *Skibs A/S Marina* [1966] 2 All E.R. 476, 478.

FEDERAL COURT.

Porres P. Royan for the appeallants.

Abdul Rahim Noor (G.T. Rajan with him) for the respondents.

Cur. Adv. Vult.